

appoint them in consultation with the aforesaid constitutional functionaries as well as the Chief Justice of that High Court.¹²⁵ The retirement age was fixed at 62 years.¹²⁶ The qualification for appointment as a judge of a High Court included ten years standing as an advocate of a High Court, ten years service as a member of the civil service of Pakistan including at least three years as a district judge, or holding of a judicial office in Pakistan for at least ten years.¹²⁷

A judge of a High Court could not be removed from his office except by an order of the President made on the grounds of misbehaviour or infirmity of mind or body, if the Supreme Judicial Council, on reference being made to it by the President, reported that the judge ought to be removed on any of those grounds.¹²⁸ There was provision for the appointment of an Acting Chief Justice when the office of the Chief Justice became vacant or he was absent or unable to perform his duties.¹²⁹ The President had no option in the matter of appointment of Acting Chief Justice. He could only appoint the most senior of the other judges of the High Court to act as Chief Justice. However, transfer of judges from one High Court to another was made subject to the consent of the judge being transferred and subject to consultation with the Chief Justice of Pakistan and both the Chief Justices of the High Court of which he was a judge and to which he was being transferred.¹³⁰ The decision of a High Court on a question of law would be binding on all courts subordinate to it,¹³¹ and which each High Court was empowered to supervise and control.¹³²

Islamic Provisions

Islam was declared the state religion of Pakistan.¹³³ The Islamic way of life was to be promoted including steps like the organization of *zakat*, *auqaf*, and the mosques.¹³⁴ Strengthening of bonds with the Muslim world was another principle of policy under the Constitution.¹³⁵ The Head of the State, the President, was to be a Muslim.¹³⁶ The Prime Minister was also required to be a Muslim member of the National Assembly.¹³⁷

An important Islamic provision declared that 'no law shall be enacted which is repugnant to the injunctions of Islam as laid down in the Holy Quran and the *sunnah*' and that existing laws 'shall be brought into

conformity with injunctions of Islam as laid down in the Holy Quran and *sunnah*'.¹³⁸ The President would appoint within ninety days of the commencement of the Constitution a Council of Islamic Ideology to make recommendations to Parliament and the Provincial Assemblies for bringing the existing laws into conformity with the injunctions of Islam and as to the stages by which such measures should be brought into effect.¹³⁹ The Council was also to compile in a suitable form for the guidance of Parliament and the Provincial Assemblies such injunctions of Islam as could be given legislative effect. The Commission was to submit its final report within seven years of its appointment and might submit any interim report earlier. The report, whether interim or final, was to be laid before the Parliament and each Provincial Assembly within six months of its receipt and its legislatures, after considering the report, were to enact laws in respect thereof within a period of two years of the final report.¹⁴⁰

Emergency Provisions

Under Article 232, if the President was satisfied that a grave emergency existed in which the security of Pakistan or any part thereof was threatened by war or external aggression or by internal disturbances beyond the power of the provincial government to control, he could issue a proclamation of emergency. The effects of a proclamation of emergency under Article 232 are as under:

- (a) the parliament has the power to make laws for a province on those subjects which were not included in the federal or concurrent lists, that is, the Parliament would have power to legislate even in provincial matters.
- (b) the federal executive authority has power to give direction to a province as to the manner in which the executive authority of the province would be exercised.
- (c) the federal government might issue an order assuming unto itself, or directing the Governor of a province to assume on its behalf, all or any powers of the provincial government or any function of the provincial government except that of the Provincial Assembly. The federal government is also empowered to suspend in